In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 18105 of 2004
Date of Decision: 26.10.2006

Dr. Rajendri Kumari …Petitioner

Versus

Kurukshetra University Kurukshetra and others …Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. J.S. Dahiya, Advocate,
for the petitioner.

Mr. C.B. Goel, Advocate,
for respondent Nos. 1 and 2.

Mr. Harish Rathee, Sr. DAG, Haryana,
for respondent No. 3.

JUDGMENT

M.M. KUMAR, J.

The prayer made in this petition filed under Article 226 of the Constitution is for quashing order dated 8.10.2004 (P-5) passed by the Registrar, Kurukshetra University, Kurukshetra, rejecting the representation made by the petitioner in which she has claimed that she should be recruited as reserved category candidate against the post of Social Studies Lecturer on part time basis. She was selected at Sr. No. 2 in order of merit and was offered appointment vide letter

dated 25.9.2003 on 89 days basis. She was further given extension for 89 days up to 21.3.2004. However, no further extension was granted to her. She claimed before respondent No. 2 that she should be allowed to continue as she belongs to reserved category, which request has been rejected by the impugned order. The petitioner has also prayed that the advertisement dated 29.9.2004 (P-6) in respect of the post of Social Studies Lecturer may be quashed as it contravenes the reservation policy of the State and a direction be issued to the respondents to convert the post of Social Studies Lecturer in the University College of Education from General to Schedule Caste category.

According to the respondents the post of Social Studies Lecturer is a 'single post cadre' and the same cannot be subjected to reservation and the post has been rightly advertised. It has further been pointed out that the petitioner has also applied in response to the advertisement and her candidature would be considered along with other candidates. The selection is to be made on merit. It has also been clarified that one Dr. Madhur Garg, who had been teaching Social Studies has retired on attaining the age of superannuation and accordingly the post has been advertised. With regard to the claim of the petitioner on the basis of her appointment on contract basis and her relieving at subsequent stage, it has been submitted that no right can be deemed to have conferred on the petitioner after her contract of appointment has expired. According to the respondents, the

Government instructions with regard to reservation have no application in respect of 'single post cadre'.

After hearing learned counsel for the parties, we are of the view that this petition lacks merit and is liable to be rejected because the impugned order dated 8.10.2004 (P-5) passed by respondent No. 2 is strictly in accordance with law. The petitioner was admittedly appointed on contract basis on 25.9.2003 for a period of 89 days, which was extended for another term of 89 days up to 21.3.2004. Accordingly, no further extension was granted to her. Her claim that she should be adjusted by converting the post of Social Studies Lecturer in the University College of Education from General to Scheduled Caste Category has been rightly rejected by the respondents. Ample support to the aforementioned view is available from the Constitution Bench judgment of Hon'ble the Supreme Court rendered in the case of **Secretary, State of Karnataka v. Umadevi, (2006) 4 SCC 1**, wherein it has been held that contract employees acquire no right to the post and they should be relieved according to the contract of employment.

We are further of the view that the claim of the petitioner for quashing the advertisement, dated 29.9.2004 (P-6), is also misconceived because the post in question i.e. Lecturer in Social Studies is 'single post cadre' and no reservation could be made in respect thereof. It has been repeatedly held by their Lordships' of Hon'ble the Supreme Court that in a 'single post cadre' no reservation is permissible. In that regard reliance may be placed on a

Constitution Bench judgment of Hon'ble the Supreme Court in the case of **Post Graduate Institute of Medical Education & Research v. Faculty Association, (1998) 4 SCC 1**. The aforementioned view is discernible from the reading of paras 34 and 35, which are as under:-

> " 34. In a single post cadre, reservation at any point of time on account of rotation of roster is bound to bring about a situation where such a single post in the cadre will be kept reserved exclusively for the members of the backward classes and in total exclusion of the general members of the public. Such total exclusion of general members of the public and cent per cent reservation for the backward classes is not permissible within the constitutional framework. The decisions of this Court to this effect over the decades have been consistent.
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> 35. Hence, until there is plurality of posts in a cadre, the question of reservation will not arise because any attempt of reservation by whatever means and even with the device of rotation of roster in a single post cadre is bound to create 100% reservation of such post whenever such reservation is to be implemented. The device of rotation of roster in respect of single post cadre will only mean that on some occasions there will be complete reservation and the appointment to such post is

> kept out of bounds to the members of a large segment of the community who do not belong to any reserved class, but on some other occasions the post will be available for open competition when in fact on all such occasions, a single post cadre should have been filled only by open competition amongst all segments of the society." (emphasis added)

The Constitution Bench has overruled the earlier judgments upholding reservation in a 'single post cadre' in the cases of **Union of India v. Brij Lal Thakur, (1997) 4 SCC 278; State of Bihar v. Bageshwari Prasad, 1995 Supp (1) SCC 432** and **Post Graduate Institute of Medical Education & Research v. K.L. Narasimhan, (1997) 6 SCC 283**. The view taken by the Constitution Bench has been followed and applied by the Hon'ble Supreme Court in the case of **S.R. Murthy v. State of Karnataka, (1999) 8 SCC 176**. Therefore, we do not find any merit in the submissions made by the learned counsel for the petitioner and the writ petition is liable to be dismissed.

For the reasons aforementioned, this petition fails and the same is dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)

October 26, 2006 **JUDGE**

Pkapoor

FIT FOR INDEXING